



Town of Lexington
Department of Public Works
Engineering

John R. Livsey, P.E.
Town Engineer

Tel: (781) 274-8305
Fax: (781) 274-8392

Thelma Murphy
US EPA (CIP)
One Congress Street – Suite 1100
Boston, MA 02114-2023

Dear Thelma Murphy,

Thank you for the opportunity to provide public comments on the draft small Municipal Storm Sewer System (MS4) general permit for North Coastal Massachusetts. The Town of Lexington is committed to improving stormwater quality in its watersheds and we continue to be proactive in our approach. We have reviewed the draft and attended the recently held public meeting in regards to the draft permit and in our opinion there are several sections that can be changed that will not negatively impact the effectiveness of the program and in some cases it will improve the effectiveness and efficiencies. We offer the following comments for consideration.

Comments on Draft:

- Section 2.2.1 requires the development of a Phosphorus Control Plan for the Charles River Watershed. This plan requires a number of items including but not limited to, an incentive program, prioritization, non-structural controls, structural controls, phosphorus loadings and reductions, and defining of funding sources. It is our understanding that the EPA is developing a guidance document in regards to the PCP. Without the guidance document available it makes it very difficult to understand the full-scope of the PCP and therefore limits the ability to comment on the PCP at this time. *We recommend that the EPA extend the period for comments until at least 60 days after the release of the guidance documents.*
- Section 2.4.2 Public education and outreach defines increased educational program levels including, at a minimum, outreach to residents, the business/ commercial community, developers and contractors, and an industrial program. This can be very costly and time-consuming for individual MS4s to create. *We recommend that the EPA put together brochures, mailers, door hangers, etc... covering the above listed outreach candidates as well as a variety of topics. These can be posted on EPA's website for MS4s to access and utilize for the education and outreach within their community.* This will allow MS4s to save scarce funds on developing these products and focus more on the distribution and education of the community. *Additionally, EPA sponsored seminars should be held to demonstrate successes that communities have had in their permit activities.* This will allow municipalities to share information and methodologies that the EPA has found to be successful.
- Section 2.4.2 also states that "The permittee shall identify methods that it will use to evaluate the effectiveness of the educational messages and the overall education program. Any methods used to evaluate the effectiveness of the program shall be tied to the defined goals of the program and the overall objective of changes in behavior and

knowledge.” *The Town can deliver the messages to the proposed recipients; however, we recommend that the effectiveness of the messages not be an item requiring measurement as it is very difficult to measure effectiveness in any consistent quantifiable manner. If this requirement does remain in the permit we are concerned with what measures of measurement would be considered appropriate and would like guidance from the EPA.*

- Section 2.4.4.8 provides detailed requirements for the Illicit Discharge Detection and Elimination Program (IDDE) with additional requirements for the Charles River Watershed. The requirement for dry-weather monitoring at manholes is very time-consuming and costly and in our opinion it does not provide any information that cannot be collected from dry-weather outfall inspections. In the case that dry-weather flow is found at an outfall that is determined to be an illicit discharge it is the town responsibility to find and eliminate the source. This may entail junction manhole investigations at that time. To perform these investigations in areas that do not have dry-weather flow at the outfalls will not provide any practical data for illicit discharge detection. Additionally, the requirement of partially damming inlets for a 48-hour period at manholes where no flow is observed is extremely costly and also terribly dangerous. To do this work will require special care in entering the structures as it is considered a confined entry. Additionally if a storm event happens during this damming it will likely result in flooding and likely plugging of pipes with the damming materials in an inaccessible location. This may result in infrastructure damage, replacement costs, and flooding damage. *We urge the EPA to reconsider these requirements and recommend that outfall inspections for dry-weather flow be the determining factor for further catchment investigations.*
- Section 2.4.6.9 states that “The permittee shall estimate changes in the number of acres of impervious area (IA) and directly connected impervious area (DCIA) tributary to its MS4 from the initial base line provided by EPA or determined by the permittee.” This measure is very difficult to monitor as there are numerous activities outside of the Public Right-of-Way that the MS4 does not have jurisdiction over but may result in either an increase or decrease of impervious area. Examples of these are the installation of a driveway or basketball court which increases impervious area but does not typically require a permit from the town. The connection of gutters to rain barrels, rain gardens, or an infiltrating BMP also do not require permits from the town but it results in a reduction of connected impervious area. Therefore this information cannot be readily tracked. *We recommend the elimination of this requirement from the draft as it is likely to be very time-consuming and will provide only inaccurate data.*
- Section 2.4.7.1.d.iii. requires as part of the annual catch basin cleaning to track the volume or mass removed from each catch basin that is tributary to impaired waters. The ability to track that mass or volume is at best inaccurate and would add to the time and paperwork needed to be tracked as part of the cleaning program which in turn adds to the cost. The additional cost expended on tracking will immediately impact the available funds from the cleaning program and will likely reduce the number of cleanings provided. *We recommend this tracking requirement be removed from the permit requirements as it will likely have a negative impact on the system.*
- Section 2.4.7.1.d.iv. requires sweeping of town-owned sidewalks a minimum of twice per year. Most communities do not have the equipment or manpower to provide this level of sidewalk cleaning. *We recommend that this requirement be removed or at minimum changed to a suggestion of cleaning of sidewalks to the extent practicable.*

- Section 2.4.7.1.d.vi. requires a catch basin inventory program (CBIP) be developed if you are part of the Charles River Watershed. As stated in a previous comment this collection of additional data is very time-consuming and costly to collect. That time and cost will take away from funds and time spent on physically cleaning the catch basins. This may actually be a negative impact on good housekeeping and pollution prevention within the MS4. *We recommend the monitoring requirement be eliminated.*
- Section 2.4.7.1.d.vii. Indicates that the MS4 must “Ensure that areas used for snow disposal will not result in discharges to waters.” Furthermore there is a reference to the Snow Disposal Guidance BRPG01-01 on the EPA website. This statement and the guidance document are very ambiguous and it is unclear what is being required. Does a snow disposal site consist of a specific point that snow is piled or does it include the windrows that result from snow removal along the shoulders of roadways. If it is the latter then it is an unmanageable requirement that municipalities will not be able to adhere to. *We recommend that this be better clarified and it is meant to be the latter we suggest that this be removed from the permit.*
- Section 2.4.7.2.b.4. requires quarterly inspections of the listed facilities. We recommend that this be changed to a yearly inspection as quarterly is very time-consuming and is unlikely to provide any measurable difference in performance.
- Section 3.2 discusses dry-weather screening and analytical monitoring and includes an extensive list of items to be monitored including ammonia, conductivity, E. Coli, pH, potassium, surfactants, temperature, and turbidity. This is an extensive and costly suite of data and *we would recommend the reduction of the list to those samples that provide the most significant results such as bacteria.* Items such as pH give very little relevant data that can be used for discovering or resolving a particular issue and the apparatus is very time-consuming and requires frequent calibration. A limited suite will provide more relevant data at a lower cost allowing for more efficient tracking and removal of illicit discharges. Additionally we recommend that the EPA allow MS4s to substitute end of pipe sampling with strategic in-stream sampling to more efficiently identify problem areas and further allow the focus to be on improvements to problem catchments as opposed to bulk sampling which competes with the funding for finding and removing illicit discharges.
- Section 3.3 has requirements for wet-weather sampling of all the MS4 outfalls. Wet-weather sampling results are extremely variable and are effected by another of factors such as at what point in a storm as sample is take and when the previous storm event occurred. The numerous variables and inconsistent results amount to significant data that can not readily be correlated to any known sources or results. Duplicating wet-weather sample results from a particular outfall is nearly impossible. This sampling is extremely costly and there is essentially no practical benefit. *We recommend that this requirement be removed from the permit and the focus remain on dry-weather and in-stream sampling.*
- *We suggest that the permit allow the permittee to utilize surrogate or indicator analyses when they can be scientifically verifies as useful in tracking IDDE.*

It was suggested at the public meeting that the EPA is interested in other areas that it can be of assistance to MS4 communities. We appreciate your openness to these suggestions and offer the following suggestions in addition to several that were listed above;

EPA Assistance:

- The key piece to this entire permit is the funding. As you know there are many competing interests for funding within municipalities including public safety and education. With these additional requirements it will be extremely difficult for us to be able to fund all of the requirements with current budgets. When requirements were established for CSO removals and Sanitary sewer treatment in the past it was coupled with significant funding sources. This program is equivalent in magnitude to those programs and in order for this to be successful similar funding opportunities are needed. We would ask that the EPA find ways to provide these funding opportunities for municipalities to comply with the requirements. Please be aware that these stormwater programs compete directly with funding for I/I removal in sanitary systems. ‘Robbing Peter to pay Paul’ does not work positively toward the ultimate goal of improving stormwater runoff.
- There are significant impacts in the draft requirements to communities within the Charles River Watershed in controlling phosphorus much of which will be better understood once guidance is publicized. One obvious impact is in fertilizing of lawns. Municipalities do not have jurisdiction over private properties and outside of education there is little that can be done to restrict the use at a municipal level. We cannot control what people purchase or what is sold at home centers. If the EPA is looking to minimize the use of phosphorus-laden fertilizers we would recommend that this be done at either a state or national level. We cannot control what people purchase or what is sold at home centers.
- Developers often submit plans with a variety of BMPs as part of the design to control and treat stormwater. As reviewers we try to direct them to those BMPs that have been proven and tested by such agencies as the UNH technology transfer center. Unfortunately the listed removal rates that EPA and DEP have usually lag behind and developers sometimes use this against us to get certain BMPs approved. The EPA and DEP working together on a proactive list that is continuously updated as more data is obtained through agencies such as UNH it would be a great resource for MS4s and would allow us to ensure the best products are being installed in development and redevelopment projects.
- Improved training resources and available classes to meet the training requirements for in-house personnel would be very beneficial. Currently municipalities are working separately to hire consultants and/or watershed groups to put together training programs for staff. This is time-consuming and costly. If the EPA provided free or low cost classes either on-site or at convenient locations the towns could increase staff training which is one of the permit goals. The funding saved by municipalities could then be applied to other parts of the permit.

The items that are part of the draft requirement all come with a cost which we estimate to be in the hundreds of thousands per year not including BMP installations and Illicit Discharge removals. There will be a need for communities to determine what funding sources are available for the implementation of this program which may include grants, SRF funding, stormwater utilities, tax levy, and overrides. As you know none of these sources can be guaranteed as they all need some sort of approval either by an

awarding authority, agency, Town Meeting, or voters and tax-payers. Through the general permit we are being asked to sign a Notice of Intent committing to an extremely costly and onerous program prior to knowing if funding will be available to honor the commitment. We ask that the EPA consider the magnitude of the requirements as well as the fiscal climate that we are in when reviewing the comments received by communities. We recommend that the EPA meet with the communities to further discuss the draft permit and determine where changes can be made to provide a cost-effective permit that accomplishes our goals of improving stormwater runoff. We would be available and pleased to be a part of that discussion and we could quickly pull together several other impacted communities to discuss the draft permit.

Thank you for your time and consideration of the above comments. For further discussion please contact John R. Livsey, P.E. at 781-274-8305.

Thank You,

John R. Livsey, P.E.
Lexington Town Engineer

Cc: Board of Selectmen
Representative Edward Markey
Carl F. Valente, Town Manager
Bill Hadley, Director of Public Works
Geoffrey Beckwith, MMA